

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA

DIAMOND STATE INSURANCE COMPANY,  
an Indiana corporation,

Plaintiff,

v.

MARIN MOUNTAIN BIKES, INC., a  
California corporation; and ATB  
SALES LIMITED, a private limited  
company in the United Kingdom,

Defendants.

No. C 11-5193 CW

ORDER DENYING AS  
MOOT DEFENDANT'S  
MOTION TO DISMISS,  
ABSTAIN OR STAY  
(Docket No. 12)

On September 23, 2011, ATB Sales Limited (ATB) filed a federal action against Marin Mountain Bikes, Inc. (MMB), seeking to enforce a foreign judgment in favor of ATB against MMB. Request for Judicial Notice ¶ 1, Ex. A, Compl., ATB Sales Limited v. Marin Mountain Bikes, Inc., Case No. 11-4755 YGR (N.D. Cal.) (ATB case).

On October 24, 2011, Plaintiff Diamond State Insurance Company filed the instant suit against ATB and MMB, seeking a declaratory judgment that it does not have a duty to defend or indemnify MMB in connection with the ATB case. Compl. ¶¶ 9-13.

On December 30, 2011, MMB filed a motion to dismiss, abstain or stay the current suit pending resolution of the ATB case. Docket No. 12. On February 8, 2012, MMB filed a request for leave to file supplementary material in connection with its earlier motion, representing that it had reached a settlement with ATB in the underlying case. Docket No. 19.

1 After the Court granted the parties leave to file  
2 supplementary material, MMB filed a sur-reply on April 16, 2012,  
3 stating that all parties have signed a written settlement  
4 agreement resolving the ATB case and that its motion to dismiss,  
5 abstain or stay the instant action had become moot in full.  
6 Docket No. 21, at 1-2. MMB also represented that the parties  
7 would file a notice in the ATB case informing the Court of the  
8 settlement. Id. at 1. The Court notes that no such notice has  
9 been filed in the docket of the ATB case and that that case is  
10 still pending.

11 Based on MMB's statement, the Court DENIES AS MOOT MMB's  
12 motion to dismiss, abstain or stay (Docket No. 12).

13 A case management conference in this action is currently set  
14 for May 2, 2012, at 2:00 p.m. Pursuant to the case management  
15 scheduling order, the parties are required to file a joint case  
16 management statement no later than April 25, 2012. In the  
17 parties' case management statement, in addition to the items  
18 required by the Standing Order for All Judges of the Northern  
19 District of California, the parties shall also address whether the  
20 ATB case has been closed and whether they have reached a  
21 resolution of the instant case.

22 IT IS SO ORDERED.

23  
24 Dated: 4/23/2012

  
CLAUDIA WILKEN  
United States District Judge

25  
26 CC: Hon. Yvonne Gonzalez Rogers  
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